

## Environmental Protection Agency

## § 35.6060

part 31, and 40 CFR part 300 (the National Contingency Plan).

[72 FR 24504, May 2, 2007, as amended at 73 FR 15922, Mar. 26, 2008]

### § 35.6020 Requirements for both applicants and recipients.

Applicants and recipients must comply with the applicable requirements of 40 CFR part 32, “Governmentwide Debarment and Suspension (Non-procurement); and Statutory Disqualification under the Clean Air Act and Clean Water Act,” and of 40 CFR part 36, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).”

### § 35.6025 Deviation from this subpart.

On a case-by-case basis, EPA will consider requests for an official deviation from the non-statutory provisions of this subpart. Refer to the requirements regarding additions and exceptions described in 40 CFR 31.6 (b), (c), and (d).

### PRE-REMEDIAL RESPONSE COOPERATIVE AGREEMENTS

### § 35.6050 Eligibility for pre-remedial Cooperative Agreements.

States, political subdivisions, and Indian Tribes may apply for pre-remedial response Cooperative Agreements.

### § 35.6055 State-lead pre-remedial Cooperative Agreements.

(a) To receive a State-lead pre-remedial Cooperative Agreement, the applicant must submit an “Application for Federal Assistance” (SF-424) for non-construction programs. Applications for additional funding need include only the revised pages. The application must include the following:

(1) *Budget sheets* (SF-424A).

(2) *A Project narrative statement*, including the following:

(i) *A list of sites* at which the applicant proposes to undertake pre-remedial tasks. If the recipient proposes to revise the list, the recipient may not incur costs on a new site until the EPA project officer has approved the site;

(ii) *A Statement of Work (SOW)* which must include a detailed description, by task, of activities to be conducted, the projected costs associated with each

task, the number of products to be completed, and a quarterly schedule indicating when these products will be submitted to EPA; and

(iii) *A schedule of deliverables*.

(3) *Other applicable forms and information* authorized by 40 CFR 31.10.

(b) *Pre-remedial Cooperative Agreement requirements*. The recipient must comply with all terms and conditions in the Cooperative Agreement, and with the following requirements:

(1) *Health and safety plan*. (i) Before beginning field work, the recipient must have a health and safety plan in place providing for the protection of on-site personnel and area residents. This plan need not be submitted to EPA, but must be made available to EPA upon request.

(ii) The recipient’s health and safety plan must comply with Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120, entitled “Hazardous Waste Operations and Emergency Response,” unless the recipient is an Indian Tribe exempt from OSHA requirements.

(2) *Quality assurance*. (i) The recipient must comply with the quality assurance requirements described in 40 CFR 31.45.

(ii) The recipient must have an EPA-approved non-site-specific quality assurance plan in place before beginning field work. The recipient must submit the plan to EPA in adequate time (generally 45 days) for approval to be granted before beginning field work.

(iii) The quality assurance plan must comply with the requirements regarding split sampling described in section 104(e)(4)(B) of CERCLA, as amended.

### § 35.6060 Political subdivision-lead pre-remedial Cooperative Agreements.

(a) If the Award Official determines that a political subdivision’s lead involvement in pre-remedial activities would be more efficient, economical and appropriate than that of a State, based on the number of sites to be addressed and the political subdivision’s history of program involvement, a pre-remedial Cooperative Agreement may be awarded under this section.

(b) The political subdivision must comply with all of the requirements described in § 35.6055.

**§ 35.6070 Indian Tribe-lead pre-remedial Cooperative Agreements.**

The Indian Tribe must comply with all of the requirements described in § 35.6055, except for the intergovernmental review requirements included in the “Application for Federal Assistance” (SF-424).

REMEDIAL RESPONSE COOPERATIVE AGREEMENTS

**§ 35.6100 Eligibility for remedial Cooperative Agreements.**

States, Indian Tribes, and political subdivisions may apply for remedial response Cooperative Agreements.

**§ 35.6105 State-lead remedial Cooperative Agreements.**

To receive a State-lead remedial Cooperative Agreement, the applicant must submit the following items to EPA:

(a) *Application form*, as described in § 35.6055(a). Applications for additional funding need to include only the revised pages. The application must include the following:

(1) *Budget sheets* (SF-424A) displaying costs by site, activity and operable unit, as applicable.

(2) *A Project narrative statement*, including the following:

(i) *A site description*, including a discussion of the location of each site, the physical characteristics of each site (site geology and proximity to drinking water supplies), the nature of the release (contaminant type and affected media), past response actions at each site, and response actions still required at each site;

(ii) *A site-specific Statement of Work (SOW)*, including estimated costs per task, and a standard task to ensure that a sign is posted at the site providing the appropriate contacts for obtaining information on activities being conducted at the site, and for reporting suspected criminal activities;

(iii) *A statement designating a lead site project manager among appropriate State offices*. This statement must demonstrate that the lead State agency

has conducted coordinated planning of response activities with other State agencies. The statement must identify the name and position of those individuals who will be responsible for coordinating the State offices;

(iv) *A site-specific Community Relations Plan* or an assurance that field work will not begin until one is in place. The Regional community relations coordinator must approve the Community Relations Plan before the recipient begins field work. The recipient must comply with the community relations requirements described in EPA policy and guidance, and in the National Contingency Plan;

(v) *A site-specific health and safety plan*, or an assurance that the applicant will have a final plan before starting field work. Unless specifically waived by the award official, the applicant must have a site-specific health and safety plan in place providing for the protection of on-site personnel and area residents. The site-specific health and safety plan must comply with Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120, entitled, “Hazardous Waste Operations and Emergency Response,” unless the recipient is an Indian Tribe exempt from OSHA requirements;

(vi) *Quality assurance*—(A) *General*. If the project involves environmentally related measurements or data generation, the recipient must comply with the requirements regarding quality assurance described in 40 CFR 31.45.

(B) *Quality assurance plan*. The applicant must have a separate quality assurance project plan and/or sampling plan for each site to be covered by the Cooperative Agreement. The applicant must submit the quality assurance project plan and the sampling plan, which incorporates results of any site investigation performed at that site, to EPA with its Cooperative Agreement application. However, at the option of the EPA award official with program concurrence, the applicant may submit with its application a schedule for developing the detailed site-specific quality assurance plan (generally 45 days before beginning field work). Field work may not begin until EPA approves the site-specific quality assurance plan.